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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	CASE NO. CR.S-04-275 LKK
)	(Magistrate Appeal)
Plaintiff,)	CA 56/04-50018
)	
v.)	
)	MOTION TO DISMISS COMPLAINT AND
KRISTINE BETTY PEARCE,)	[PROPOSED] ORDER
)	
Defendant.)	
_____)	COURT: Hon. Lawrence K. Karlton

Plaintiff United States of America hereby moves to dismiss this case pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure.

The defendant was convicted by Magistrate Judge Kellison on July 12, 2004 following a court trial. She promptly appealed to the district court. On May 17, 2005, this Court reversed the conviction and remanded for a new arraignment. On May 19, 2005, the government filed a notice of appeal. On September 27, 2005, the Ninth Circuit granted the government's motion to dismiss the appeal. On September 29, 2005, the district court clerk filed the Ninth Circuit's order, which is the mandate.

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1 The next step in the process is for the clerk to effectuate
2 this Court's remand order. However, that step is unnecessary if the
3 Court grants this motion to dismiss the complaint.

4 DATED: October 3, 2005

McGREGOR W. SCOTT
United States Attorney

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7 By: /s/ Samantha S. Spangler
8 Samantha S. Spangler
Assistant U.S. Attorney
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10 ORDER

11 The Complaint in Case No. CA 56/04-50018 is hereby ordered
12 DISMISSED.

13 Dated: October 3, 2005

/s/Lawrence K. Karlton
LAWRENCE K. KARLTON, Judge
United States District Court
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers.

That on October 3, 2005 she served a copy of the attached:

MOTION TO DISMISS COMPLAINT AND [PROPOSED] ORDER

by placing said copy in the United States mail in an envelope addressed as follows:

Craig M. Kellison
United States Magistrate Judge
2986 Bechelli Lane
Redding, CA 96002

/s/ Samantha S. Spangler
SAMANTHA S. SPANGLER
Assistant U.S. Attorney